

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALEX ANG, et al.,
Plaintiffs,
v.
BIMBO BAKERIES USA, INC.,
Defendant.

Case No. 13-cv-01196-HSG

**ORDER TO SHOW CAUSE WHY THE
COURT SHOULD NOT STAY THIS
ACTION PENDING RESOLUTION OF
THIRD-PARTY APPEALS**

On February 18, 2015, Plaintiffs Alex Ang and Lynn Streit moved for class certification in this action. Dkt. No. 102. The parties fully briefed the motion and the Court held a hearing on the matter on May 6, 2015. Dkt. No. 133. Since that time, two appeals have remained pending in the Ninth Circuit that address important questions of law that are at issue in this case. Those appeals are *Jones v. ConAgra Foods, Inc.*, No. 14-16327 (9th Cir. Nov. 24, 2014),¹ which addresses the issue of ascertainability in low-cost consumer class actions, and *Brazil v. Dole Packaged Foods, LLC*, No. 14-17480 (9th Cir. Dec. 18, 2014), which addresses the proper standard to apply to damages models under *Comcast Corp. v. Behrend*, — U.S. —, 133 S. Ct. 1426, 1432 (2013).

In light of those pending appeals, several courts in this district have stayed cases similar to this one. *E.g.*, *Koller v. Med Foods, Inc.*, No. 14-CV-02400 (N.D. Cal. Dec. 14, 2015); *Samet v. Kellogg Co.*, No. 12-CV-1891, 2015 WL 6954989, at *2 (N. D. Cal. Nov. 10, 2015) (partial stay); *Thomas v. Costco Wholesale Corp.*, 12-CV-02908, 2015 WL 6674696, at *3 (N.D. Cal. Nov. 2, 2015); *Park v. Welch*, No. 12-CV-06449, Dkt. 77 (N.D. Cal. Oct. 22, 2015); *Astiana v. Hain Celestial Group, Inc.*, No. 11-CV-06342, Dkt. 114 (N.D. Cal. Oct. 9, 2015); *Wilson v. Frito-Lay*


¹ Briefing was completed on

1 *North America*, No. 12-CV-1586-SC, 2015 WL 4451424, at *2 (N.D. Cal. July 20, 2015);
2 *Leonhart v. Nature's Path Foods, Inc.*, No. 13-CV-00492, 2015 WL 3548212, at *3-4 (N.D. Cal.
3 June 5, 2015); *Pardini v. Unilever United States*, No. 13-CV-01675, 2015 WL 1744340, at *3
4 (N.D. Cal. Apr. 15, 2015); *Allen v. ConAgra Foods*, No. 13-CV-01279 (N.D. Cal. Feb. 20, 2015);
5 *Parker v. J.M. Smucker Co.*, No. 13-CV-00690 (N.D. Cal. Dec. 18, 2014) (Dkt. No. 74);
6 *Gustavson v. Mars, Inc.*, No. 13-CV-04537, 2014 WL 6986421, at *2-4 (N.D. Cal. Dec. 10, 2014).

7 For these reasons, the Court hereby **ORDERS** the parties to show cause why a similar stay
8 should not issue in this case. The parties are directed to meet and confer, then submit briefs of no
9 longer than five pages setting forth their position on the propriety of a stay by April 1, 2016. If the
10 parties agree one way or the other, they may submit a joint statement reflecting their shared
11 position. After reviewing the parties' filing(s), the Court will determine whether further briefing
12 on the issue is appropriate.

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14 **IT IS SO ORDERED.**

15 Dated: March 25, 2016

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18 HAYWOOD S. GILLIAM, JR.
United States District Judge